

SENATE BILL 868

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2004 Regular Session
4lr3070
CF 4lr3056

By: **Senator Middleton**
Introduced and read first time: February 23, 2004
Assigned to: Rules
Re-referred to: Finance, March 5, 2004

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 1, 2004

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Treatment of Morbid Obesity**

3 FOR the purpose of ~~altering the requirements that gastric bypass surgery or another~~
4 ~~surgical method must meet for coverage for treatment for morbid obesity to be~~
5 ~~provided by certain insurers, nonprofit health service plans, health~~
6 ~~maintenance organizations, and managed care organizations; authorizing an~~
7 ~~insurer, nonprofit health service plan, health maintenance organization, or~~
8 ~~managed care organization to require an insured or enrollee to satisfy certain~~
9 ~~criteria to qualify for coverage for this benefit clarifying the circumstances~~
10 ~~under which certain insurers, nonprofit health service plans, health~~
11 ~~maintenance organizations, and managed care organizations must provide~~
12 ~~coverage for the surgical treatment of morbid obesity; establishing a Task Force~~
13 ~~to Study Utilization Review of the Surgical Treatment of Morbid Obesity;~~
14 ~~providing for the membership, chairman, and duties of the Task Force; requiring~~
15 ~~the Task Force to report its findings and recommendations to certain~~
16 ~~committees of the General Assembly on or before a certain date; requiring the~~
17 ~~Maryland Insurance Administration to report to certain committees of the~~
18 ~~General Assembly certain information relating to complaints filed with the~~
19 ~~Administration for denials of coverage for the surgical treatment of morbid~~
20 ~~obesity; providing for the termination of this Act; and generally relating to the~~
21 ~~treatment of morbid obesity under health insurance.~~

22 BY repealing and reenacting, with amendments,
23 Article - Insurance
24 Section 15-839
25 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Insurance**

5 15-839.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Body mass index" means a practical marker that is used to assess
8 the degree of obesity and is calculated by dividing the weight in kilograms by the
9 height in meters squared.

10 (3) "Morbid obesity" means a body mass index that is:

11 (i) greater than 40 kilograms per meter squared; or

12 (ii) equal to or greater than 35 kilograms per meter squared with a
13 comorbid medical condition, including hypertension, a cardiopulmonary condition,
14 sleep apnea, or diabetes.

15 (b) This section applies to:

16 (1) insurers and nonprofit health service plans that provide hospital,
17 medical, or surgical benefits to individuals or groups on an expense-incurred basis
18 under health insurance policies or contracts that are issued or delivered in the State;

19 (2) health maintenance organizations that provide hospital, medical, or
20 surgical benefits to individuals or groups under contracts that are issued or delivered
21 in the State; and

22 (3) managed care organizations, as defined in § 15-101 of the Health -
23 General Article.

24 (c) An entity subject to this section shall provide coverage for the SURGICAL
25 treatment of morbid obesity ~~through gastric bypass surgery or another surgical~~
26 ~~method~~ that is:

27 (1) recognized by the National Institutes of Health as effective for the
28 long-term reversal of morbid obesity; and

29 (2) consistent with ~~criteria~~ GUIDELINES approved by the National
30 Institutes of Health.

31 (d) An entity subject to this section shall provide the benefits required under
32 this section to the same extent as for other medically necessary surgical procedures
33 under the enrollee's or insured's contract or policy with the entity.

1 ~~(E) AN ENTITY SUBJECT TO THIS SECTION MAY REQUIRE AN ENROLLEE OR~~
2 ~~INSURED TO SATISFY THE DEFINITION OF MORBID OBESITY AND OTHER~~
3 ~~GUIDELINES RECOGNIZED BY THE NATIONAL INSTITUTES OF HEALTH TO QUALIFY~~
4 ~~FOR COVERAGE FOR THIS BENEFIT.~~

5 SECTION 2. AND BE IT FURTHER ENACTED, That:

6 (a) There is a Task Force to Study Utilization Review of the Surgical
7 Treatment of Morbid Obesity.

8 (b) The Task Force consists of the following members:

9 (1) two representatives of the Maryland Hospital Association, appointed
10 by the Maryland Hospital Association;

11 (2) four members, appointed by the Maryland Insurance Administration,
12 as follows:

13 (i) two representatives of health maintenance organizations in the
14 State;

15 (ii) one representative of a nonprofit health service plan in the
16 State; and

17 (iii) one representative of a health insurer in the State;

18 (3) five physicians, two of whom are endocrinologists or internists with
19 special expertise in bariatric medicine, appointed by the Department of Health and
20 Mental Hygiene; and

21 (4) one consumer, appointed by the Maryland Weight Loss Surgery
22 Legislative Action Committee.

23 (c) The members of the Task Force shall appoint a chairman from among their
24 members.

25 (d) A member of the Task Force is not entitled to compensation or
26 reimbursement for expenses.

27 (e) The Task Force shall:

28 (1) review the utilization review procedures currently used by health
29 insurance carriers that provide surgical treatment for morbid obesity under § 15-839
30 of the Insurance Article;

31 (2) review the National Institutes of Health guidelines and any other
32 nationally recognized guidelines or criteria for the surgical treatment of morbid
33 obesity; and

1 (3) recommend a set of guidelines or criteria that are appropriate for the
2 utilization review of the surgical treatment of morbid obesity, and reasonable
3 procedures for documenting patient compliance with the guidelines or criteria.

4 (f) The Task Force shall report its findings and recommendations, in
5 accordance with § 2-1246 of the State Government Article, to the Senate Finance
6 Committee and the House Health and Government Operations Committee on or
7 before December 1, 2004.

8 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December
9 15, 2004, the Maryland Insurance Administration shall report, in accordance with §
10 2-1246 of the State Government Article, to the Senate Finance Committee and the
11 House Health and Government Operations Committee, for the period from June 1,
12 2004, through November 30, 2004, on:

13 (1) the number of complaints filed with the Administration relating to
14 the denial of coverage for the surgical treatment of morbid obesity;

15 (2) the health insurance carrier that denied coverage and the reason
16 given for the denial; and

17 (3) whether the Administration upheld or reversed the denial of coverage
18 and the basis of the decision.

19 SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
20 effect June 1, 2004. It shall remain effective for a period of 1 year and, at the end of
21 May 31, 2005, with no further action required by the General Assembly, this Act shall
22 be abrogated and of no further force and effect.